

board. This is a trick to postpone action on the impeachment resolution.

The roll was then called on a motion of Mr. Hinman to reconsider the vote defeating his motion to postpone until this afternoon action on the impeachment resolution. The motion was lost—aye, 19; noes, 73.

#### Claim 80 Votes.

Six Assemblymen voted for postponement but were counted as sure for impeachment. The leaders still expect eighty votes for impeachment.

Aaron Levy, the majority leader, said at 1:15 o'clock that the resolution would be adopted a little after 2 o'clock. He said that there were no defections from the anti-Sulzer lines and that the impeachment vote would be considerably larger than 75, the necessary majority.

Ingram and Kornblith, the two New York Assemblymen whose presence the whip wanted to be sure of before a vote is risked, had not then arrived.

Because of this imperative need of delay the Assembly let the speakers talk as long as they pleased. Harold Hinman, the Republican minority leader, stated that the Legislature must not engage in any unseemly scramble to impeach.

Mr. Cuvillier, Tammany Democrat, denounced the Governor, but professed sorrow for him, and Louis D. Gibbs, Sulzer Democrat of the Bronx, said the Governor had done nothing to merit impeachment and that the Legislature had no right to impeach for misconduct alleged to have taken place before Mr. Sulzer took office.

"You may call this proceeding government under the law," concluded Mr. Gibbs, "but I call it anarchy. If he would be a convenient, accommodating Governor to walk the plank. But he has refused all overtures from the Boss and this impeachment proceeding is the answer of the Boss."

Some of the Governor's friends are saying that if he is impeached he will fight for a while on constitutional grounds, meanwhile trying to make peace with his accusers and that if he fails he intends to resign.

Debate on the impeachment resolution was resumed by Theodore Ward (Democrat), who was for the impeachment, and by Mark Eisner (Democrat), who said he did not champion the Governor, but was opposed to impeachment as unconstitutional.

Senator Schamp, a prominent Progressive and Sulzer adherent, again urged the Constitution was ignored by the Legislature in instituting impeachment proceedings.

"The conduct of the Legislature on this question is reckless and criminal," he declared, "in acting in such haste."

#### THE SESSION TO MIDNIGHT.

Assembly Marks Time, Waiting for a 2 A. M. Train.

ALBANY, Aug. 12.—With all except five of the 102 Democratic members present to-night at the session which is likely to end with the impeachment of Gov. Sulzer, the leaders were confident that they had more than the seventy-six votes that are necessary.

After waiting all afternoon while lagard members were hurrying to Albany in response to numerous telegrams and telephone summonses from their chiefs the Assembly finally got into action at 10:10 o'clock to-night.

The Assembly chamber was filled by 8 o'clock. Fifty women were among the crowd. Then the doors were closed and barred and braced on the inside by strong guards.

The orders were to let in only members of the Assembly and others who could prove that they had real business on the premises. The guards obeyed so zealously that for a while even the newspaper men were kept out, though they had cards signed by Speaker Smith.

It was not merely to prevent overcrowding by the public that this precaution of the closed doors was taken. There had been rumors all afternoon that excited persons had made up their minds that the best way to help Gov. Sulzer was to start a riot in the Assembly chamber.

The Assemblymen's chairs filled slowly. The public could wait and feed itself on rumors, but obviously the real actors knew just when they were expected. At 9:30 o'clock a momentary stir was caused by the advent of a gray helmeted policeman, who stood near the front door. Thereafter the door was left open. Other policemen were outside.

There was no sign in the demeanor of the Assemblymen that anything serious was on hand. They chatted, read the papers, smoked, wore their hats if they wished to do so, took things easily. At 10:10 o'clock Speaker Smith announced "the gentlemen in the gallery will kindly stop smoking. Wandering members skeddaddled to their places. The session had begun, but word had just gone out that there would be no vote until 2 o'clock when two straggling Assemblymen would get here from New York city and one from a farm near the northern border.

The Democratic absentees from the roll call at 10:30 o'clock were Brewster, Hearn, Kornblith, Ingram and Wilcott. The Progressive absentees were Jude and Volk. The Republican absentees were Adler, Allen, Brereton, Gillett, Hopkins, Horton, Jones, Knight, MacDonald, Mac-hold, Pappert, Pemberton, Phillips, Richardson, J. A. Smith, Sullivan, Sweet, Vert and Yeomans.

The Democrats supposed to be on the train at 2 A. M. were Ingram and Kornblith of Kings county. It looked now as if virtually the full Democratic strength would be here to-night sooner or later.

Hinman Protests Again.

Mr. Hinman, the Republican leader, arose for one last protest against the pressing of the impeachment resolution. He said everybody had been discomfited by the long wait and that the members who had stayed at home so long were culpable. He went on:

"We are setting a precedent to-night for the impeachment of a Governor in this State. I still doubt if we have the power to take this action at this extraordinary session."

He quoted the constitutional provisions as to meetings of the Assembly and said that the present body was improperly convened. He wanted more time to study the constitutional aspect of the question. He insisted also that the Frawley report dealt only with the Governor's campaign contributions, not with Mr. Sulzer's conduct in the Governorship, and that even the charges as they stood were not enough for impeachment.

Mr. Hinman quoted law reports and histories. In Mr. Lincoln's "Constitutional History of New York" he found an opinion that the Governor could be impeached only for wilful misconduct in office.

"The Governor may be offered up as a sacrificial lamb," said Mr. Hinman, "but there must be no precipitate action such as this. The Governor could be impeached only for wilful misconduct in office."

## Gov. Sulzer Entering the Capitol



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ment which has been offered here. No court would accept charges so unspecific.

Mr. Hinman argued that if impeachment there must be the form should be solemn and dignified. He argued that to a committee of the Assembly, not a mixed committee of Assemblymen and Senators, should be referred a matter so peculiarly the Assembly's own.

#### Noon Session Adjourned.

The Assembly was supposed to meet at noon to-day to consider the resolution impeaching the Governor, but from moment to moment the call was postponed until at 3:30 o'clock it was made known that everything was off until evening.

The delay represented an extraordinary effort by the party leaders to make sure that the impeachment resolution would be adopted when it came to a vote. The word went out that there must be eighty anti-Sulzer Democrats in the Assembly chamber before the issue could be risked. The necessary majority of the elected members is seventy-six, but the Tammany leaders insisted on at least four extra voters to insure victory in case a few of the supposed faithful ones proved faithless.

Last night the men who could be counted on to call for impeachment were only sixty-four. Telegrams went from Majority Leader Levy to each of the absentees. These messages were peremptory. Nothing short of total physical disability could be accepted as an excuse. In Kings county alone were eight Democratic Assemblymen who got this eager call.

The Empire State Express brought five or six New York Assemblymen, vacation camps in the Adirondacks supplied others. When noses were counted at 2 o'clock this afternoon Mr. Levy found that seventy-five Assemblymen were in the capital and that enough others were reported on the way to insure the proper strength to-night. An hour later Speaker Smith announced that the Assembly would be reconvened at 8:30 o'clock to-night.

Two muscular men loafed on the steps outside the Speaker's door. Passes signed by the Speaker had to be displayed before anybody could pass the gate in the main aisle of the Assembly chamber.

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#### DELANEY TO INVESTIGATE.

Efficiency Commissioner May Get Hennessey on the Stand.

ALBANY, Aug. 12.—An investigation of the Highway Department will be begun to-morrow by Commissioner John H. Delaney of the Department of Efficiency and Economy, who declared before Gov. Sulzer's special investigator John A. Hennessey on Monday that he would "have him on the stand very soon."

Commissioner Delaney has designated Wood D. London, chief accountant in the Highway Department, to make the investigation. Commissioner Delaney has the power to compel the attendance of witnesses, the production of books and to administer oaths. His investigation promises to be sweeping and will be directed against Hennessey, who was a confidential investigator in the Highway Department.

Changes made in highway repair contracts to which the Commissioner's office called attention gave Mr. Delaney the tip for his investigation. These changes resulted in the cancellation of all the bids for thirty-three contracts for the repair of State roads.

#### GETS OLD RAILROAD FOR \$500.

All That's Left of Newtown and Flushing Line Sold at Auction.

An echo of railroadings as it was carried on forty years ago, when the "White Flyer" steamed out of Flushing at the rate of fifteen miles an hour bound for Hunter's Point, which is now in Long Island City, was heard on the steps of the Queens county courthouse yesterday, where Thomas Adams, acting for Sheriff George Emmer, sold all the right, title and interest in the old Newtown and Flushing railroad company, which passed out many years ago, to satisfy a judgment for \$37,678.51 obtained by L. Bradford Prince for many years territorial Governor of New Mexico, and his sister, the late Charlotte C. Henry, as executors of the estate of Charlotte C. Henry, deceased.

Mortimer S. Brown, attorney for the Prince interests, was the only bidder, and he acquired the entire holdings for \$500. Just before the sale opened Michael V. Realty Company, which holds the Newtown and Flushing Railroad, was first tried in court, but there was no traffic enough to keep it going and it failed.

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## SULZER'S PLAN IS TO APPEAL TO COURT

One of His Personal Appointees to Refuse to Recognize Him as Governor.

#### TO TEST LEGISLATURE

Contention Is That No Right to Impeach Is Invested in That Body.

ALBANY, Aug. 12.—For the first time since he became Governor Mr. Sulzer failed to meet the newspaper men to-day. Heretofore he has talked to them at 11 and 4 o'clock each day.

He went to the Capitol earlier than usual and stayed late. His proxy when reporters called was his secretary, Chester C. Platt. Mr. Platt brought word that the Governor, "by advice of counsel," was determined not to talk.

"If the Governor is impeached," Mr. Platt said, "he will have nothing to say pending his trial. If he is not impeached he will make a very full statement which will be an amplification of his denial on Sunday of the Frawley committee accusations."

One comic adventure grimly enlivened Gov. Sulzer's day. It was a call from four Democratic Assemblymen who are accounted as among his sternest foes. The Governor had invited Assemblymen Hinman, Schamp, Eisner and Gibbs to call on him. They opposed adoption of the Frawley report in the Assembly on Monday night. The Governor wanted to thank them and stiffen them for the rest of the night. But his messenger bore this verbal invitation to the wrong men.

McCue Was Puzzled.

As a result Assemblymen Marty McCue, Jackson, Walker and Gillen, all obviously puzzled, walked into the Governor's waiting room. A fifth who was mistaken for McCue, Jacob Sullivan, sent word that nothing short of a written request would induce him to see the Governor.

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#### Gov. Sulzer's Plan.

It was believed here to-day that if impeachment was voted the Governor would immediately try to have its legality tested by having a State appointee friendly to the Governor refuse to obey an order on the steps of the Queens county courthouse yesterday, where Thomas Adams, acting for Sheriff George Emmer, sold all the right, title and interest in the old Newtown and Flushing railroad company, which passed out many years ago, to satisfy a judgment for \$37,678.51 obtained by L. Bradford Prince for many years territorial Governor of New Mexico, and his sister, the late Charlotte C. Henry, as executors of the estate of Charlotte C. Henry, deceased.

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## SENATOR CULBERSON IS ILL

Friends Fear the Worst and His Vote May Be Lost on Tariff.

WASHINGTON, Aug. 12.—Disquieting reports as to the physical condition of Senator Charles A. Culbertson of Texas, who is in a sanitarium in Connecticut, reached the Senate to-day. The Senator's physicians will allow no one, not even the Senate leaders, to communicate with him. Senator Culbertson went to Atlantic City shortly after the adjournment of the regular session and has not been in attendance at the extra session. His friends are not at all sanguine as to the outcome of his illness, which was only disclosed when the Senate Democratic leaders tried to get into direct communication with him so as to insure his presence when the final vote is taken on the tariff bill.

#### \$75,000 LENT TO SULLIVAN.

Recording of Mortgages Shows He Borrowed From A. J. Erlanger.

A loan of \$75,000 from Abraham L. Erlanger, Culbertson's attorney, D. Sullivan on December 21, 1909, came to light yesterday, when a mortgage for that amount, given by Sullivan to Erlanger, was recorded in Westchester county. Sullivan's property, and counsel to the committee, said last night that he knew there was such a mortgage, but that no intimation had been given to him as counsel at the time the loan was made. He had no idea of circumstances under which the loan was made.

The Dewey and Savoy theatre properties, given as security for the mortgage, each are worth about \$600,000, and are partly covered by mortgages. The mortgage was executed at about the time the "Fence" in East Fourteenth street was built by Congressman Sullivan and his partner, George J. Kraus.

## TORONTO MERCHANT IS MURDERED HERE

Continued from First Page.

leaving the initials "W. G. M." was on the floor. The man's hands were tied behind his back and the bonds were held taut by an iron pipe which had been used to twist the strings. A blackjack had been used on the man's face and head. The man's shoes were gone.

As the police were studying the situation Mrs. Barrett was begging Patrolman Riddell to tell her how she might trace her friend. He was giving her instructions when he saw several patrolmen running west on Fifty-seventh street and word was soon brought to him that the body of a man had been found. He suggested to Mrs. Barrett that she go with him to the rooming house thinking that there was a chance her friend might be the dead man.

Mrs. Barrett told the police that Marten was an old friend and that when he came to the city he always stayed at her house.

"He arrived here from Toronto on Monday morning for his fall buying," she explained, "and came to my house immediately. He went out to do his buying and when he returned at six o'clock he was missing. I went to his room and found him lying on the floor. He was dead. He had been murdered for his jewelry and money."

The police wired to Toronto to make further inquiries concerning the man. His body was taken to the morgue and various articles that belonged to him were taken to the West Forty-seventh street police station to be held as evidence.

Detectives questioned the man who ran the rooming house in the hope of getting descriptions of the three persons who for the last week or so had spent much time in the room where Marten was found dead. They advanced no other explanation for the crime other than that Marten had been murdered for his jewelry and money.

Toronto, Ont., Aug. 12.—W. Greive Marten conducted a millinery business at 55, Carlton street and went to New York to buy millinery. He is supposed to have taken a good deal of money with him. He did a good business, his shop being one of the best in the neighborhood. He was a quiet man and not very much known in his home.

It was said that Gov. Sulzer had been planning a back fire in the shape of an investigation of the campaign contributions and expenditures of some of his fellow Democrats who have turned against him.

Mr. Hennessey admitted that he brought a lot of business men to Albany to-day. They weren't the only detectives working in Mr. Sulzer's interest. Albany is running over with amateur "investigators" standing around in dark corners with lowered hatchets.

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## DICTAGRAPH TRAPS ALLEGED SINDLERS

Police Listen to Men Accused of Trying to Defraud Insurance Company.

#### MARKED MONEY IS USED

Detectives Then Arrest Two Charged With Cheating and Giving Bribe.

Two men who were accused of having tried to defraud a burglary insurance company and to bribe an adjuster employed by the company, were arrested through were arrested late yesterday afternoon in the Hotel Seville, at Twenty-ninth street and Madison avenue, after accepting a roll of marked bills from the adjuster and talking about the affair for some time while a dictagraph carried the entire conversation to a police stenographer sitting in the next room.

The prisoners are Nathan Maier, 24 years old, a milliner living at 71 West 118th street, and Harry Baltimore, 39 years old, an insurance adjuster living at 440 Riverside Drive. The complainant against them is Gerard Louis, an adjuster for the Ocean Accident and Guarantee Corporation of 49 John street.

Louis was the adjuster who made a raid with detectives on a "fence" in the Elmsire Hotel in the Bronx on November 18 last and who, after \$29 worth of jewelry, had killed ex-Detective John Allen and a waiter and had wounded Detective Martin Fay and Louis, raised himself from the floor, with six bullets in his body, and killed the woman companion, who grabbed Vogel's revolver from him as Vogel fell.

Reports Alleged Burglary.

Maier reported to the police of the Lenox avenue station on July 5 that his flat, on the third floor of the building at 71 West 118th street, had been entered by burglars while he and his wife were away. He claimed to have lost \$39 worth of jewelry. Detectives investigated the complaint and characterized it as "fishy." Meanwhile Maier had gone to Baltimore, an insurance broker and adjuster by appointment and by the Ocean company, with which he carried a burglary insurance policy. In doing this he swore to the usual proof of loss.

The Ocean company turned the claim over to Louis for adjustment. The adjuster soon found himself in accord with the police as to the character of the burglary. On July 5 he met Maier and Baltimore and they made an appointment to meet him what he thought of the claim. He said they admitted to him that the burglary was a fake and told him they would give him \$25,000 if he would make a little money on the side. His part, they said, would be to get the claim through the insurance company and he would be liberally taken care of.

"I like to make a little money whenever I can," Louis says he replied, fell in with the scheme enthusiastically and accepted \$25,000, he says. Maier offered him a little advance payment and earnest of more to come. Then the adjuster reported the whole occurrence to his company. The company got the cooperation of Deputy

Dougherty and the latter advised him to deceive Maier and Baltimore until he could clinch the case against them.

Louis kept in touch with the men, but according to the statements to them had a good deal of trouble getting his company to believe in the claim. He finally notified them that the thing had gone through and made an appointment to meet them at 5 o'clock yesterday afternoon in the Seville.

Hide in Adjoining Room.

Then he rented two adjoining rooms in the hotel. A dictagraph was placed in one of these with its receiver in the other. In this second room Detectives Patrick Gi